IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2398 OF 2005
IN
WRIT PETITION NO. 2932 OF 1999

Dattatraya Savalaram Ghadigaonkar.. Applicant
V/s.
Satyapal Uttamchand Choudhari ... Respondent

Mr. Y.S. Jahagirdar, Sr. Counsel for the applicant.
Mr. A.V. Anturkar for the respondent.

CORAM : ANOOP V. MOHTA, J.
DATED : 24th March, 2006

P.C.

. Heard.

2. Considering the averments made in para 6 of this Civil Application, according to me a sufficient reason is made out to revoke the order dated 3rd August, 2005 which was passed as none appeared for the tenant even though they were served. An application was allowed in terms of prayer clause (b), (c) & (d) based on the averments made in the said Application. Admittedly, no reply was filed by the tenant to said application and that resulted into passing of order dated 3rd August, 2005.

3. In view of this, I am recalling order dated 3rd August, 2005, however as consented, the applicant,

would deposit Rs. 1 lacs without prejudice to the rights of the parties within four weeks as a condition precedent of the present order. The applicant to file reply to the Civil Application No. 929 of 2005 within four weeks.

4. The landlord is permitted to withdraw the amount of Rs. 1 lac on the condition that if tenant succeeds, the land-lord will re-deposit the money with interest @ 6% p.a. In view of this, Civil Application is allowed in terms of prayer clause (b) with above directions.

Clause (b) - That the order dated 3rd August, 2005 be set aside.

5. No costs.

[ANOOP V. MOHTA, J.]